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3 UNITED STATES DISTRICT COURT  
4 WESTERN DISTRICT OF WASHINGTON  
5 AT TACOMA

6 JOSEPH NORMAN LEAR,

7 Plaintiff,

8 v.

9 PAT GLEBE,

10 Defendant.

CASE NO. C10-5720BHS

ORDER OVERRULING  
PLAINTIFF'S OBJECTION  
AND ADOPTING REPORT  
AND RECOMMENDATION

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12 This matter comes before the Court on the Report and Recommendation ("R&R")  
13 of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 21) and  
14 Plaintiff Joseph Norman Lear's ("Lear") objections to the R&R (Dkt. 25). The Court  
15 having reviewed the R&R and Lear's objection thereto, hereby overrules Lear's  
16 objections and adopts the R&R as discussed herein.

17 **I. PROCEDURAL HISTORY**

18 On March 29, 2011, Magistrate Judge Strombom recommended dismissing Lear's  
19 petition as time barred. Dkt. 21. On April 27, 2011 the Court granted Lear an extension  
20 of time in which to file his objections to the R&R. Dkt. 24. On May 20, 2011, Lear filed  
21 his objection. Dkt. 25.

22 **II. FACTUAL BACKGROUND**

23 The Court adopts the facts as stated in the R&R. Dkt. 21 at 2-4. Magistrate Judge  
24 Strombom recommended dismissing Lear's petition for a writ of habeas corpus and  
25 denying Lear a certificate of appealability. R&R at 2, 15.  
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### III. DISCUSSION

While a pro se litigant's pleadings and papers are held to a less stringent standard than those of represented parties (*see Haines v. Kerner*, 404 U.S. 519, 520 (1972)), pro se litigants are expected to follow the same rules of procedure that govern other litigants. *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987). To object to a magistrate judge's R&R, a party must file specific written objections to the proposed findings and recommendations. *See* Fed. R. Civ. P. 72(b)(2); *see also* 28 U.S.C. § 636(b)(1)(c) (requiring district courts to conduct de novo review only of "those portions of the [magistrate's] report . . . to which objection is made"). In addition, except as otherwise provided by court order or rule, objections to a magistrate judge's order or recommended disposition, or any response thereto, shall not exceed twelve pages. Local Rule 72.

Here, Lear filed 55<sup>1</sup> pages in response to the R&R, but none of them contain a specific objection to the findings contained in the report. Dkt. 25. Nothing Lear presented even attempts to counter Judge Strombom's finding that there are no grounds for tolling the statute of limitations and that Lear's habeas petition is time barred. Dkt. 21 at 15. Instead, Lear attempts to repackage and reargue his habeas petition. *Id.* Failure to follow the rules is sufficient grounds on which to overrule Lear's supposed objection.

Moreover, even if the Court were to overlook Lear's failure to comply with the Court's rules and construe this document as an objection, the objection is ineffective. A general objection to the entirety of a magistrate's report, without specifying a single issue of contention, "has the same effects as would a failure to object." *Howard v. Secretary of Health and Human Services*, 932 F.2d 505, 509 (6th Cir. 1991). The court in *Howard* explained further, that when no specific objection is made,

[t]he district court's attention is not focused on any specific issues for review, thereby making the initial reference to the magistrate useless. The

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<sup>1</sup> The full length of the document filed with the Court is 84 pages but addendums B, C and D were included twice.

1 functions of the district court are effectively duplicated as both the  
2 magistrate and the district court perform identical tasks. This duplication of  
3 time and effort wastes judicial resources rather than saving them, and runs  
4 contrary to the purposes of the Magistrates Act. We would hardly  
5 countenance an appellant's brief simply objecting to the district court's  
6 determination without explaining the source of the error. We should not  
7 permit appellants to do the same to the district court reviewing the  
8 magistrate's report.

9 *Id.* (citing *Thomas v. Arn*, 474 U.S. 140, 148 (1985)). Where no objections to the  
10 magistrate judge's R&R have been filed, the district court may give the review it deems  
11 appropriate. *Webb v. Califano*, 468 F. Supp. 825 (E.D. Cal. 1979); *see also, Thomas v.*  
12 *Arn*, 474 U.S. 140, 151 (1985); *Wang v. Masaitis*, 416 F.3d 992, 1000 n. 13 (9th Cir.  
13 2005) (noting that when no objections are filed, the district court need not review de  
14 novo the R&R). Here, after reviewing the document filed by Lear, the Court finds no  
15 specific objections before it. Thus, because Lear has not effectively objected to the R&R,  
16 the Court concludes that no timely objection exists and the Magistrate judge properly  
17 concluded that Lear's petition is time barred.

#### 18 IV. ORDER

19 The Court having considered the Report and Recommendation, Plaintiff's  
20 objections, and the remaining record, does hereby find and order as follows:

- 21 (1) Lear's objections are **OVERRULED** (Dkt. 25);
- 22 (2) The R&R is **ADOPTED**;
- 23 (3) Lear's habeas corpus petition is **DISMISSED with prejudice**; and
- 24 (4) A certificate of appealability is **DENIED**.

25 DATED this 20th day of June, 2011.



26 BENJAMIN H. SETTLE  
27 United States District Judge  
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